IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 19162 of 2003

Between:

1 Secretaty, Zilla Grandhalaya Samstha, Medak
Sangareddy
2 Chairman, Zilla Grandhalaya Samstha
Medak at Sangareddy.
3 Director of Public Library, A.P., State Central library Building, Afzalgunj, Hyderabad.
4 Secretary to Government of Andhra Pradesh Department of Education, Secretariat, Hyderabad.

..... PETITIONERS

AND

H.R.Venkata Ramana, S/o Late Rammohan,
Record Assistant, Branch Library
Tekmal, Zilla Grandhalaya Samstha, Medak.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ order or direction. More particulars in the nature of write of certiorari and to quash and call for the records relating to and connected with order Rev.M.A.No.2041/2002 Dt.1.7.2002, of the Hon'ble A.P. Administrative Tribunal and quash or set aside the same as erroneous and contrary to law.

Counsel for the Petitioners: GP FOR SERVICES II

Counsel for the Respondent: MR.M.VENKAT RAM REDDY

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed by the Government assailing the order, dated 01.07.2002 passed by the A.P. Administrative Tribunal in Rev.M.A.No.2041 of 2002.

2. The matter relates to the promotion to the post of Librarian Grade III. The respondent was initially appointed as Record Assistant on 06.02.1986 and he joined duty on 07.02.1986. The next promotion for the said post is Librarian Grade III for which according to Rules the mode of recruitment is as follows:

a. The 1st vacancy shall be filled in by promotion from lower category of (i) Junior Assistant and Typists, (ii) Record Assistants and (iii) Attenders.

b. The 2nd vacancy shall be filled in by direct recruitment.

c. The 3rd vacancy shall be filled in by transfer from other services.

3. In case of non-availability of candidates in the first category, it will be filled up by the next category candidates and so on. While so, 23 vacancies arose in 1987 in the category of Librarian Grade III.

4. The case of the respondent was not considered and therefore, he filed O.A.5205 of 1993 seeking promotion to the post of Librarian Grade III. The said O.A. was dismissed on 28.01.2002. But, however, he filed Rev.M.A.No.2041 of 2002 and the same was allowed, against which the present Writ Petition has been filed by the Government.

5. Learned Government Pleader submits that the order of the Tribunal is illegal and contrary to law when the respondent was not eligible for promotion to the post of Librarian Grade III. As the respondent did not possess requisite qualification in 1987, he cannot claim the same as affright simply because the vacancy is available and the respondent subsequently acquired the required qualification for promotion to the post of Librarian Grade III and hence, the order of the Tribunal is liable to be set aside.

6. On the other hand, the learned counsel for the respondent submits that the O.A. was filed and the Tribunal issued direction not to fill up the post of Librarian Grade III and therefore, in view of the said interim direction the respondent cannot be promoted.

7. The scenario in this case is quite different. As per the Rules, the post of Librarian Grade III was to be filled up by promotion and when sufficient candidates were not available in 1987, the posts were converted into the category to be filled up by direct recruitment, and therefore, in 1993 candidates were called up for promotion through Employment Exchange, and at that point of time, O.A. was filed seeking the above direction. By virtue of interim direction, one post was kept vacant, and therefore, when the said post is to be filled up, it has to be considered whether any person in category No.1 is eligible to be promoted. It is only when category No.I candidates are not available, it should be filled up by direct recruitment.

8. Admittedly, in the instant case, as on the date the review petition was disposed of, the petitioner secured necessary qualifications, and he was eligible to be

considered for promotion to the post of Librarian Grade III in category No.I.

9. Under those circumstances, we do not find any illegality or irregularity in the order passed by the Tribunal.

10. Accordingly, the Writ Petition is dismissed. No costs.

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G. BIKSHAPATHY, J.

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P.S. NARAYANA, J.

Date: 20.01.2005

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To

1. The Secretary, Zilla Grandhalaya Samstha, Medak at Sangareddy.

2. The Chairman, Zilla Grandhalaya Samstha, Medak at Sangareddy.

3. The Director of Public Library, A.P. State Central Library Building, Afzalgunj, Hyderabad.

4. The Secretary, Govt. of A.P., Department of Education, Secretariat, Hyderabad.

5. The Registrar, A.P. Administrative Tribunal, Hyderabad.

6. 2 CCs to the G.P. for Services II, High Court of A.P., Hyderabad (OUT).

7. 2 CD copies.